

STATE OF MAINE

SUPREME JUDICIAL COURT

DOCKET NO. OJ-12-2

In the Matter of  
Request for Opinion of the Justices

**PROCEDURAL ORDER**

On February 29, 2012, the House of Representatives of the 125<sup>th</sup> Maine Legislature referred three questions to the Supreme Judicial Court, related to the duties and activities of the Treasurer of State. A copy of the House Order setting forth the questions is attached hereto.

The Justices hereby invite the House of Representatives, and all other interested persons, to submit briefs addressing the questions propounded, as well as whether the questions present, individually or together, a “solemn occasion,” pursuant to article VI, section 3 of the Maine Constitution.

The House of Representatives and any other persons wishing to submit a brief to the Court shall do so by filing the brief with the Clerk of the Supreme Judicial Court, in Portland, at 205 Newbury Street, Room 139, Portland, Maine 04101, on or before noon on Friday, March 16. Briefs shall not be longer than thirty pages, double-spaced. Responsive briefs are not required but may be filed by any person who has filed an initial brief on or before Friday, March 23. Responsive briefs shall not exceed ten pages, double-spaced.

To facilitate public and judicial review of all filings, the justices request that, whenever possible, an electronic copy of any hard copy brief also be emailed as a .pdf file to [lawcourt.clerk@courts.maine.gov](mailto:lawcourt.clerk@courts.maine.gov).

The Justices do not currently anticipate further briefing or argument.

Dated: March 5, 2012

For the Justices,

/s/  
\_\_\_\_\_  
Leigh I. Saufley  
Chief Justice

## STATE OF MAINE

In House 2/29/12

**WHEREAS**, it appears to the House of Representatives of the 125th Legislature that the following are important questions of law and that this is a solemn occasion; and

**WHEREAS**, the Constitution of Maine, Article VI, Section 3 provides for the Justices of the Supreme Judicial Court to render their opinion on these questions; and

**WHEREAS**, there is a question within the House of Representatives as to what activities constitute engaging in trade or commerce within the meaning of the Constitution of Maine, Article V, Part Third, Section 3; now, therefore, be it

**ORDERED**, that, in accordance with the provisions of the Constitution of Maine, the House of Representatives respectfully requests the Justices of the Supreme Judicial Court to give the House of Representatives their opinion on the following questions of law:

Question 1. Does mere ownership of business interests or stock by the Treasurer of State constitute engaging in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader as such terms are used in the Constitution of Maine, Article V, Part Third, Section 3?

Question 2. If the answer to Question 1 is in the affirmative, would the Treasurer of State be engaged in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader if the Treasurer of State did not manage or involve himself in the day-to-day activities of such business interests or stock?

Question 3. If it is determined that the Treasurer of State has engaged in any business of trade or commerce, or as a broker, or as an agent or factor for any merchant or trader, does that finding affect or have an impact on the validity of the actions taken by the Treasurer of State in the performance of his official duties as used in the Constitution of Maine, Article V, Part Third, Section 3?

SPONSORED BY:

Philip A. Curtis  
(Representative CURTIS)

TOWN: Madison

**HOUSE OF REPRESENTATIVES**

February 29, 2012

READ.

ON MOTION OF REPRESENTATIVE CURTIS OF MADISON,  
TABLED PENDING PASSAGE PURSUANT TO HOUSE RULE 513.

SPECIALLY ASSIGNED FOR MARCH 1, 2012.



CLERK

**HOUSE OF REPRESENTATIVES**

March 1, 2012

SPEAKER LAID BEFORE THE HOUSE

SUBSEQUENTLY, THE *House* ORDER WAS PASSED.

ROLL CALL NO. 235

(YEAS 122 - NAYS 0 - ABSENT 28 - EXCUSED 0) (VACANCY 1)

. ORDERED SENT FORTHWITH.



CLERK